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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,289	12/08/2003	Ronald T. Butler	12,559	1588

7590

09/09/2005

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EXAMINER

REIS, TRAVIS M

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/729,289	Applicant(s) BUTLER ET AL.	
	Examiner Travis M. Reis	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-9, & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dent (U.S. Patent 3305936) in view of Weinmann (U.S. Patent 6035729) & Seger et al (U.S. Patent 2000865).

Dent discloses a multiple gauge assembly comprising in combination a first adjustable gauge (1) elongated in a first direction, a second adjustable gauge (6) elongated in a second direction, said first and second directions being mutually perpendicular, and a third adjustable gauge (7) elongated in a third direction, said third direction being substantially parallel to said second direction; said assembly including carriers (2, 5, 5) supporting said first, second, and third gauges for slidable linear adjustable interconnected movement in second and third directions being substantially perpendicular to the first gauge, said first carrier supporting said first gauge for vertical movement (Figures 1 & 2); wherein said gauges are considered "interconnected" in as much as said second and third gauges are interconnected in applicant's invention as shown in the Figures 1-6.

Dent does not disclose having gauge marks therealong on said gauges.

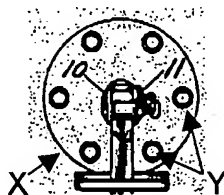
Weinmann discloses a wheel offset measure (1) having gauges (8, 9) with gauge markings (13—17) therealong (Figure 1) in order to establish a rim offset dimension (Abstract). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the gauge markings disclosed by Weinmann to the gauges disclosed

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by Dent in order to establish a rim offset dimension. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. to establish a rim edge radial dimension; to establish a tire peripheral dimension; whereby clearance between the wheel and said vehicle structure can be predicatively ascertained, as during wheel turning, prior to installation of the wheel on the mount) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Dent does not disclose a connector plate having a lug projection generally normal to the plate and connected to said first carrier along the length thereof and at the level of said plate but in spaced relation to the plate and spaced below the second gauge, with a plane defined by the carriers extending normal to a plane defined by the connector plate, the plate having radially extending openings configured to pass bolts for bolt-on connection to said vehicle wheel mount turnable with the wheel about said pivot axis.

Seeger et al. discloses a kingpin angle gauge (10) with a connector plate (X, see below)



having a lug (3) projection generally normal to the plate and connected to said first carrier (5) along the length thereof and at the level of said plate but in spaced relation to the plate, with a plane defined by carriers (11) extending normal to a plane defined by the connector plate, the plate having radially extending openings configured to pass bolts (Y, see above) for bolt-on connection to said vehicle wheel mount (2) turnable with the wheel about said pivot axis (Figures 1-4). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the connector plate disclosed by Seeger et al. to the

gauge disclosed by Dent in order to steadily secure the gauge to the automobile while measuring. Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed (i.e. said flange turnable with the wheel about said pivot axis) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, since the gauge would still be capable of being turned. **Ex parte Masham**, 2 USPQ2d 1647 (1987).

With respect to the preamble of the claims 1-3, 5-9, & 12: the preamble of the claim does not provide enough patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self – contained description of the structure not depending for completeness upon the introductory clause. **Kropa v. Robie**, 88 USPQ 478 (CCPA 1951).

Response to Arguments

3. Applicant's arguments with respect to claims 1-3, 5-9, & 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
Supervisory Patent Examiner
Tech Center 2800

tmr
September 6, 2005

CHRISTOPHER W. FULTON
PRIMARY EXAMINER